

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division**

Nelson L. Bruce,)	
)	
	Plaintiff,)
)	Civil Act. No. 2:19-cv-03456-BHH-BM
v.)	
)	
Bank of America, N.A.,)	
)	
	Defendant.)
)	

**DEFENDANT BANK OF AMERICA, N.A.’S RESPONSE IN OPPOSITION TO
PLAINTIFF’S MOTION TO REOPEN APPEAL DEADLINE**

Defendant Bank of America, N.A. (“BANA”) hereby submits its Response in Opposition to Plaintiff’s Motion to Reopen Appeal Deadline [ECF Nos. 147 and 148] (“Motion”), and requests that this Court deny the Motion.

This matter was terminated by an Order and Judgment entered on February 10 and 11, 2022, respectively. [ECF 119 & 120]. Plaintiff filed a Motion for Reconsideration on March 10, 2022, which was denied on April 20, 2022. [ECF 130]. Plaintiff filed a notice of appeal on May 24, 2022. [ECF 134]. On August 31, 2023, the Fourth Circuit entered an Order and Judgment affirming [ECF 016] in Case No. 22-1578 and determining that Plaintiff’s notice of appeal was not timely.

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, Plaintiff had 30 days to give notice of an appeal. Under Rule 4(a)(5), Plaintiff had 30 additional days to request an extension of this time period. Plaintiff’s request unquestionably falls outside of these parameters and Plaintiff cites no rule or authority for an extension after the expiration of the 30-day period on Rule 4(a)(5). Moreover, the timeliness of Plaintiff’s appeal has already been decided by the Fourth Circuit and is now law of the case. *See TFWS, Inc. v. Franchot*, 572 F.3d 186, 191 (4th

Cir. 2009) (citation omitted) (“when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.”); *accord Carlson v. Boston Scientific Corp.*, 856 F.3d 320, 325 (4th Cir. 2017).

CONCLUSION

For the reasons stated above, BANA respectfully requests that this Court deny Plaintiff’s Motion to Reopen Appeal Deadline.

This is the 2nd day of November 2023.

/s/ T. Richmond McPherson III

T. Richmond McPherson III
(SC Federal Bar #11214)

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CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2023, the foregoing *Defendant Bank of America's Response in Opposition to Plaintiff's Motion to Reopen Appeal Deadline* was filed via the court's CM/ECF system and served by First Class U.S. Mail with postage prepaid upon the following:

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Pro Se Plaintiff

/s/ T. Richmond McPherson III

T. Richmond McPherson III